

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES J. MEYER and CHERYL A. MEYER,

Plaintiffs

US District Court Case No.:

vs.

Honorable:

DENNIS M. TUSHLA and O'CONNOR &
TUSHLA/O'CONNOR, TUSHLA
& FRENCH,

Van Buren County Circuit Court
Lower Court Case No. 16-0666465

Defendants. /

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NOTICE OF REMOVAL

NOW COME Defendants, Dennis M. Tushla and O'Connor & Tushla/O'Connor, Tushla & French, by counsel, hereby filing this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and in support thereof, stating as follows:

1. This is a civil action for money damages alleging Count I: Fraud, Fraudulent Concealment and/or Misrepresentation, Count II: Breach of Fiduciary Duties, and Count III: Negligent Client Misrepresentation (Malpractice). A copy of the Complaint is attached hereto as Exhibit 1, and a copy of Plaintiffs' Demand for Trial by Jury is attached hereto as Exhibit 2. No other process, pleadings or orders have been served on the Defendants, and the Defendants are informed and believe that no other process, pleadings or orders have been filed in this matter.

2. This action was filed on or about August 19, 2016 in the Van Buren County, Michigan, Circuit Court.

3. Defendants were served with process (certified mail) on September 19, 2016.

4. This action is between citizens of different states. Specifically:

A. Plaintiffs allege that they are citizens of the State of Illinois. See Complaint, ¶¶ 3, 4.

B. Defendant Tushla is a citizen of the State of Arizona. See generally, Complaint, ¶ 1. Defendant Tushla generally did business under the assumed business name of O'Connor & Tushla.

C. Defendant O'Connor & Tushla, PLLC was formerly a Michigan professional limited liability company in existence at certain times, and which did business under the assumed business name of O'Connor, Tushla & French at certain times. O'Connor & Tushla, PLLC was dissolved on or about April 11, 2016. Dennis M. Tushla was the sole member of O'Connor & Tushla, PLLC, and is a citizen of the State of Arizona. See 28 U.S.C. § 1441(b).

4. Plaintiffs seek damages against Defendants in an amount exceeding \$1,025,000, as set forth in Plaintiffs' Complaint.

5. This Court has jurisdiction over this matter under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiffs and Defendants, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. This Notice of Removal has been filed within 30 days of the date the Defendants were served with the Summons and Complaint in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b). All Defendants have joined in the removal of this action.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) 1446(a) because the United States District Court for the Western District is the federal judicial district embracing the Circuit Court for Van Buren County, Michigan, where the state court action was originally filed.

8. Written notice of this removal has been served upon counsel for the Plaintiffs, and Defendants' Notice of Filing of Notice of Removal has been filed with the Clerk of the Van Buren County, Michigan Circuit Court, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendants respectfully file this Notice of Removal for the reasons set forth above.

Respectfully submitted,

HONIGMAN MILLER SCHWARTZ AND COHN LLP

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Dated: October 6, 2016